

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 69

HOUSE BILL 2087

AN ACT

AMENDING SECTIONS 37-108, 37-132, 37-205, 37-241, 37-251, 37-284, 37-335.02
AND 37-503, ARIZONA REVISED STATUTES; RELATING TO THE STATE LAND DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 37-108, Arizona Revised Statutes, is amended to read:

37-108. Fees; accounts

A. The department shall charge fees in the following amounts:

1. Applications to lease; agreements:

(a) Surface lease:

(i) Agriculture, new lease

for each section or

fraction thereof

\$100

(ii) Agricultural, renewal

for each lease

\$100

(iii) Commercial, new

\$200 plus

legal advertising

costs

(iv) Commercial, renewal

\$100

(v) Grazing, new for each

section or fraction

thereof

\$100

(vi) Grazing, renewal for

each lease

\$100

(vii) Homesite, new

\$100

(viii) Homesite, renewal

\$100

(b) Urban planning/permits:

(i) Classification

\$100

(ii) Development plan

\$100

(c) Subsurface lease/permit/agreement:

(i) Mineral materials

\$100

(ii) Mineral exploration

\$100

(iii) Mineral for each subdivision

\$100

(iv) Oil and gas

\$100

(v) Geothermal

\$200

2. All assignments of leases, permits,

rights-of-way and contracts

\$200

3. Exchanges of land

\$1,000 plus

appraisal costs

4. Improvements:

(a) Application to place

\$50

(b) Land treatment

\$50

(c) Report of improvements without

prior approval

\$50

5. Natural products:

(a) Commercial timber

\$100

(b) Other natural products

\$100

1	6. Permits:	
2	(a) Special land use	\$100
3	(b) Recreational: noncommercial	
4	activities	
5	(i) Annual use, per person	\$15
6	(ii) Group of fewer than twenty	
7	persons for less than	
8	five days	\$15
9	(iii) Annual use, family unit of	
10	two adults and children	
11	under fourteen years	
12	of age	\$20
13	(iv) Annual use, group or club	\$50
14	7. Reclassification of lands	\$100
15	8. Right-of-way	\$100 plus
16		appraisal costs
17	9. Sales:	
18	(a) Application to purchase	\$200 plus
19		legal advertising
20		costs
21	(b) Certificate of purchase:	
22	(i) Issuance	\$100
23	(ii) Transfer	\$200
24	(c) Issuance of patent	\$100
25	10. Selling and administrative expenses:	
26	(a) Up to three per cent of the	
27	consideration paid for all	
28	lands sold or long-term	
29	leased.	
30	(b) Two per cent of the first two	
31	hundred fifty thousand	
32	dollars of the appraised	
33	value of all improvements	
34	sold or the actual costs	
35	of the appraisal of the	
36	improvements sold, whichever	
37	is greater.	
38	(c) The actual cost of zoning	
39	application fees paid by the	
40	department to rezone trust land.	

(d) The actual costs of legal
advertising expenses required
by law and paid by the
department, including costs
of advertising hearings, land,
leases and rights-of-way.

(e) THE ACTUAL COSTS OF APPRAISALS
PAID BY THE DEPARTMENT UNLESS
PREPAID BY THE APPLICANT.

11. Service fee:

(a) Replacement of lost documents	\$50
(b) Certified copy of documents	\$10 plus \$1 per page
(c) Returned check	\$20

12. Miscellaneous filings, including power
of attorney, mortgage, probate
documents, divorce documents, deeds
of trust, agreements, subleases,
rights of entry, applications to
open land and other similar
documents

\$50

13. Bond for conservation lease or sale
for conservation purposes

\$1,000

B. Notwithstanding section 37-107, monies paid as legal advertising costs under subsection A of this section, appraisal monies received pursuant to subsection D of this section and monies paid as application evaluation and processing costs pursuant to section 37-205, subsection A shall be deposited, pursuant to sections 35-146 and 35-147, in a separate account of the state land department fund to be used to pay costs of legal advertising, appraisals required by the enabling act, the Constitution of Arizona or statute and costs of evaluating and processing an application. The account shall be administered by the commissioner. On notice from the commissioner, the state treasurer shall invest and divest monies in the state land department fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. Monies paid as actual costs of zoning application fees paid by the department to rezone trust land under subsection A of this section shall be deposited, pursuant to sections 35-146 and 35-147, in a separate account of the state land department fund designated the zoning application fees account. Monies in the account shall be used to pay zoning application fees if developing trust lands require rezoning by the jurisdiction in which the lands are located. The account shall be administered by the commissioner.

1 D. At the request of an applicant, the commissioner may accept
2 prepayment for the estimated cost of an appraisal required pursuant to
3 section 27-234 and this title. The commissioner shall deposit and administer
4 prepayment monies as provided by subsection B of this section. The
5 commissioner shall use monies accepted pursuant to this subsection to conduct
6 contract appraisals. If an auction is held pursuant to this section and the
7 applicant, who has prepaid the estimated cost of an appraisal, is not the
8 successful bidder, the successful bidder shall reimburse the applicant for
9 the actual cost of the appraisal. Nothing in this section does any of the
10 following:

11 1. Requires the commissioner to offer any land at auction or for
12 lease.

13 2. Requires the commissioner to reimburse the applicant if the land
14 is not auctioned or leased.

15 3. Affects the status of any other application pending an appraisal.

16 E. EXCEPT AS PROVIDED UNDER SECTION 37-205, APPLICATION FEES PAID TO
17 THE DEPARTMENT UNDER THIS SECTION ARE NOT REFUNDABLE TO THE APPLICANT,
18 REGARDLESS OF THE OUTCOME OF THE APPLICATION.

19 Sec. 2. Section 37-132, Arizona Revised Statutes, is amended to read:
20 37-132. Powers and duties

21 A. The commissioner shall:

22 1. Exercise and perform all powers and duties vested in or imposed
23 upon the department, and prescribe such rules as are necessary to discharge
24 those duties.

25 2. Exercise the powers of surveyor-general except for the powers of
26 the surveyor-general exercised by the treasurer as a member of the selection
27 board pursuant to section 37-202.

28 3. Make long-range plans for the future use of state lands in
29 cooperation with other state agencies, local planning authorities and
30 political subdivisions.

31 4. Promote the infill and orderly development of state lands in areas
32 beneficial to the trust and prevent urban sprawl or leapfrog development on
33 state lands.

34 5. Classify and appraise all state lands, together with the
35 improvements on state lands, for the purpose of sale, lease or grant of
36 rights-of-way. The commissioner may impose such conditions and covenants and
37 make such reservations in the sale of state lands as the commissioner deems
38 to be in the best interest of the state trust. The provisions of this
39 paragraph are subject to hearing procedures pursuant to title 41, chapter 6,
40 article 10 and, except as provided in section 41-1092.08, subsection H, are
41 subject to judicial review pursuant to title 12, chapter 7, article 6.

42 6. Have authority to lease for grazing, agricultural, homesite or
43 other purposes, except commercial, all land owned or held in trust by the
44 state.

1 7. Have authority to lease for commercial purposes and sell all land
2 owned or held in trust by the state, but any such lease for commercial
3 purposes or any such sale shall first be approved by the board of appeals.

4 8. Except as otherwise provided, determine all disputes, grievances
5 or other questions pertaining to the administration of state lands.

6 9. Appoint deputies and other assistants and employees necessary to
7 perform the duties of the department, assign their duties, and require of
8 them such surety bonds as the commissioner deems proper. The compensation
9 of the deputy, assistants or employees shall be as determined pursuant to
10 section 38-611.

11 10. Make a written report to the governor annually, not later than
12 September 1, disclosing in detail the activities of the department for the
13 preceding fiscal year, and publish it for distribution. The report shall
14 include an evaluation of auctions of state land leases held during the
15 preceding fiscal year considering the advantages and disadvantages to the
16 state trust of the existence and exercise of preferred rights to lease
17 reclassified state land.

18 11. Withdraw state land from surface or subsurface sales or lease
19 applications if the commissioner deems it to be in the best interest of the
20 trust. This closure of state lands to new applications for sale or lease
21 does not affect the rights which existing lessees have under law for renewal
22 of their leases and reimbursement for improvements.

23 B. The commissioner may:

24 1. Take evidence relating to, and may require of the various county
25 officers information on, any matter that the commissioner has the power
26 to investigate or determine.

27 2. Under such rules as the commissioner adopts, use private real
28 estate brokers to assist in any sale or long-term lease of state land and
29 pay, from fees collected under section 37-108, subsection A, paragraph 10,
30 subdivision (a), a commission to a broker that is licensed pursuant to title
31 32, chapter 20 and that provides the purchaser or lessee at auction. The
32 purchaser or lessee at auction is not eligible to receive a commission
33 pursuant to this subsection. A commission shall not be paid on a sale or a
34 long-term lease if the purchaser or lessee is another governmental agency.

35 3. Require a permittee, lessee or grantee to post a surety bond or any
36 form of collateral deemed sufficient by the commissioner for performance or
37 restoration purposes. The commissioner shall use the proceeds of a bond or
38 collateral only for the purposes determined at the time the bond or
39 collateral is posted. For agricultural lessees, the commissioner may require
40 collateral as follows:

41 (a) As security for payment of the annual assessments levied by the
42 irrigation district in which the state land is located if the lessee has a
43 history of late payments or defaults. The amount of the collateral required
44 shall not exceed the annual assessment levied by the irrigation district.

1 (b) As security for payment of rent, if an extension of time for
2 payment is requested or if the lessee has a history of late payments of rent.
3 The collateral shall be submitted at the time any extension of time for
4 payment is requested. The amount of the collateral required shall not exceed
5 the annual amount of rent for the land.

6 (c) A surety bond shall be required only if the commissioner
7 determines that other forms of collateral are insufficient.

8 4. Withhold market and economic analyses, preliminary engineering,
9 site and area studies and appraisals that are collected during the urban
10 planning process from public viewing before they are submitted to local
11 planning and zoning authorities.

12 5. Withhold from public inspection proprietary information received
13 during lease negotiations. The proprietary information shall be released to
14 public inspection unless the release may harm the competitive position of the
15 applicant and the information could not have been obtained by other
16 legitimate means.

17 6. Issue ~~special land use~~ permits for short-term use of state land for
18 specific purposes as prescribed by rule.

19 7. CONTRACT WITH A THIRD PARTY TO SELL RECREATIONAL PERMITS. A THIRD
20 PARTY UNDER CONTRACT PURSUANT TO THIS PARAGRAPH MAY ASSESS A SURCHARGE FOR
21 ITS SERVICES AS PROVIDED IN THE CONTRACT, IN ADDITION TO THE FEES PRESCRIBED
22 BY SECTION 37-108.

23 ~~7.~~ 8. Close urban lands to specific uses as prescribed by rule if
24 necessary for dust abatement, TO REDUCE A RISK FROM HAZARDOUS ENVIRONMENTAL
25 CONDITIONS THAT POSE A RISK TO HUMAN HEALTH OR SAFETY or FOR remediation
26 purposes.

27 ~~8.~~ 9. Notwithstanding subsection A, paragraph 4 of this section,
28 authorize, in the best interest of the trust, the extension of public
29 services and facilities either:

30 (a) That are necessary to implement plans of the local governing body,
31 including plans adopted or amended pursuant to section 9-461.06 or 11-824.

32 (b) Across state lands that are either:

33 (i) Classified as suitable for conservation pursuant to section
34 37-312.

35 (ii) Sold or leased at auction for conservation purposes.

36 C. The commissioner or any deputy or employee of the department shall
37 not have, own or acquire, directly or indirectly, any state lands or the
38 products on any state lands, any interest in or to such lands or products,
39 or improvements on leased state lands, or be interested in any state
40 irrigation project affecting state lands.

41 Sec. 3. Section 37-205, Arizona Revised Statutes, is amended to read:

42 37-205. Costs related to disposition of land

43 A. In addition to other fees required by this title, the commissioner
44 may require or allow an applicant to advance or incur costs for evaluating
45 and processing an application for a sale, lease, right-of-way or other use

1 permit, including cultural resource investigations, legal land surveys,
2 environmental assessments and economic consulting, engineering, planning,
3 legal or geological studies. Monies that are advanced to the department
4 pursuant to this subsection shall be deposited and administered by the
5 commissioner as provided by section 37-108, subsection B.

6 B. If the successful bidder at an auction is not the applicant, the
7 successful bidder shall reimburse the applicant for fees and costs paid
8 pursuant to this section in amounts and on terms the commissioner or the
9 commissioner's designee directs in the auction notice. After receiving the
10 reimbursement amounts, the commissioner shall remit them to the applicant.

11 C. If an auction does not occur or a transaction is otherwise not
12 completed as a result of a mistake or circumstances caused by the department,
13 including issues arising out of concerns over title, misidentification of the
14 parcel and factors affecting the commissioner's view of the timeliness or
15 desirability of disposing of the parcel, then the commissioner, on the timely
16 written request of an applicant, may reimburse or cause to be reimbursed to
17 the applicant, on terms that the commissioner considers reasonable and
18 appropriate, from monies of the department all or part of the costs paid
19 pursuant to this section AND APPLICATION FEES PAID PURSUANT TO SECTION
20 37-108. The Reimbursement FOR COSTS PAID PURSUANT TO THIS SECTION may only
21 be for costs that the commissioner determines to represent an enhancement of
22 knowledge about the parcel or that tangibly or intangibly enhance the value
23 of the parcel. The commissioner may refuse any reimbursement request for any
24 reason.

25 Sec. 4. Section 37-241, Arizona Revised Statutes, is amended to read:

26 37-241. Terms of sale of state land; payment; interest rate

27 A. The terms of sale of state land are as follows:

28 1. At least ten per cent, but not more than twenty-five per cent, of
29 the appraised value, as stated in the auction notice, which shall be applied
30 to principal, together with the required fees prescribed by section 37-108,
31 shall be paid by cashier's check upon announcement of the successful bidder.

32 2. If the amount bid for the land exceeds the appraised value, further
33 payment shall be made within thirty days so that the total amount paid
34 including the amount paid on the date of sale shall equal the percentage of
35 the bid, as stated in the auction notice, which shall be allocated to
36 principal, together with the required fees prescribed under section 37-108.

37 B. Upon payment of the amounts provided in subsection A of this
38 section, and upon compliance by the purchaser with the requirements of this
39 article, and the payment of the fees under section 37-108, a certificate of
40 purchase shall issue as provided in section 37-244. On full payment for the
41 entire tract of land sold within thirty days after the auction, the
42 department shall issue a patent as provided in section 37-251.

43 C. If the purchaser fails to complete the payment of the percentage
44 of the bid stated in the auction notice, together with the fees required by

1 section 37-108, or to enter into a contract of sale within the time provided
2 IN THE CERTIFICATE OF PURCHASE OFFERED BY THE DEPARTMENT:

3 1. The purchaser forfeits all amounts paid, including:

4 (a) All payments made on the purchase price, which shall be deemed to
5 be rental for the land.

6 (b) All amounts paid under section 37-108.

7 2. The commissioner may declare that the bid placed before the final
8 bid accepted is the highest bid, and that bidder has five business days after
9 notification by the department to pay by cashier's check all amounts due
10 under this section and section 37-108.

11 D. The balance of the purchase price is payable as follows:

12 1. The commissioner shall establish prior to the notice of sale the
13 length of the term over which the balance shall be paid and whether a
14 variable or fixed interest rate is appropriate. This determination shall be
15 based on the nature of the land being sold and general market conditions in
16 effect at the time.

17 2. After establishing the length of the term and whether a fixed or
18 variable rate is appropriate, the commissioner shall notify the state
19 treasurer to establish the interest rate after consideration of local
20 prevailing prime interest rates and mortgage rates and the maximum amount of
21 interest set by statute by this state, if any.

22 3. If a variable rate is established, the interest rate charged a
23 purchaser may vary from year to year. The department shall annually notify
24 each purchaser of the interest rate specified by the state treasurer to be
25 paid by the purchaser for the following year and the total amount of interest
26 payable the following year with the purchaser's annual payment.

27 E. The commissioner shall establish prior to the notice of sale the
28 length of the term over which the balance shall be paid. The term shall not
29 exceed twenty-five years.

30 F. The length of term, interest rate and whether the rate is variable
31 or fixed shall be considered terms of the sale to be included in the notice
32 required by section 37-237.

33 G. The purchaser may discharge the entire debt at any time and be
34 entitled to a patent for the land if THE PURCHASER PAYS the entire purchase
35 price, together with the applicable fees, ~~is paid~~ AND DEMONSTRATES THAT ALL
36 TERMS AND CONDITIONS OF THE CERTIFICATE OF PURCHASE HAVE BEEN SATISFIED.

37 Sec. 5. Section 37-251, Arizona Revised Statutes, is amended to read:

38 37-251. Issuance of patents for state lands

39 A. Upon filing the certificate of purchase, together with evidence of
40 full payment of principal and interest, for the entire tract of land sold,
41 AND EVIDENCE THAT ALL TERMS AND CONDITIONS OF THE CERTIFICATE OF PURCHASE
42 HAVE BEEN SATISFIED, the department shall issue to the purchaser a patent
43 under the seal of the state, signed by the governor and countersigned by the
44 secretary of state.

1 B. On application by the purchaser a patent for less than the entire
2 tract may be issued to the purchaser if the commissioner finds that it is in
3 the best interest of the applicable trust, subject to the following:

4 1. The parcel to be patented may consist of one or more pieces of
5 land, described either by metes and bounds or by legal subdivision.

6 2. A patent shall not be issued for less than one-fourth of the tract
7 sold or less than ten acres, whichever is smaller, except that:

8 (a) If the original tract is less than forty acres, a patent may be
9 issued for parcels of not less than five acres each.

10 (b) In the case of a right-of-way the actual parcel needed for the
11 right-of-way may be patented.

12 3. Before any parcel less than the entire tract is patented the
13 department shall determine that the remaining lands are of greater value than
14 the unpaid balance of the certificate of purchase and that the remaining
15 lands have development potential independent of the acreage that is being
16 patented. Before patenting, the commissioner shall require to be paid an
17 amount, on the lands to be patented, in excess of the purchase price per acre
18 of the entire tract until the total price of the entire tract has been
19 paid. In establishing the amount to be paid for the partial patent the
20 commissioner shall take into account the amount of the down payment made on
21 the entire tract. Nothing in this paragraph affects certificates of purchase
22 issued before September 30, 1988.

23 4. When paid, the partial purchase price shall be credited on the
24 total purchase price stated in the certificate of purchase. The department
25 may issue a supplement to the certificate of purchase deleting the land
26 patented and reducing the amount of each of the remaining annual installments
27 to that amount which, when all installments are paid in full, will discharge
28 the entire unpaid balance due on the original certificate of purchase.

29 C. Any land patented under this section is subject to existing valid
30 rights-of-way.

31 D. If the purchaser has died, and the land described has been sold and
32 confirmed by order of court, the patent shall be issued to the purchaser to
33 whom confirmation of sale was made. If the estate of the deceased person is
34 distributed by order of the court, the patent shall be issued to the heirs
35 of the deceased person, or to the person to whom the lands are distributed.
36 Patents issued to a deceased person shall inure to the benefit of the heirs
37 or assigns of the deceased person.

38 E. If an assignment of the certificate of purchase has been filed with
39 and approved by the department, the patent shall be issued to the assignee,
40 and if proper evidence of a transfer of the certificate by operation of law
41 is filed with the department, the patent shall be issued to the transferee.

42 F. A record of all patents issued shall be kept in the records of the
43 department.

1 Sec. 6. Section 37-284, Arizona Revised Statutes, is amended to read:
2 37-284. Conflicting long-term lease applications; preference
3 rights

4 A. A conflicting application for an existing lease FOR A TERM OF NOT
5 MORE THAN TEN YEARS shall be filed at least two hundred seventy days but not
6 more than one year before the expiration date on the lease. When the
7 department receives a conflicting application, the department shall give the
8 existing lessee thirty days' notice to file an application for renewal
9 pursuant to this section.

10 B. If two or more applicants apply to lease the same land FOR A TERM
11 OF NOT MORE THAN TEN YEARS, the department shall approve the application of
12 the one who, after investigation or hearing, appears to have the best right
13 and equity to the lease. The order of filing shall not be a controlling
14 factor in deciding who is entitled to the lease. If it appears that none of
15 the applicants has any right or equities superior to those of another that
16 would outweigh an offer of additional rent, and if it is in the best interest
17 of the trust, the department may, at a stated time and after due notice to
18 all applicants, receive bids submitted in accordance with rules of the
19 department. If one of the competing applicants is the existing lessee who
20 has a preferred right of renewal pursuant to section 37-291, the department
21 may extend the preferred right of renewal to the existing lessee if the
22 existing lessee offers a bid matching the highest bid. The department shall
23 approve the application of the bidder who in all respects is eligible to
24 receive a lease upon the land and will pay the highest annual rental, or the
25 department may reject all bids.

26 C. Before the department issues a lease to the successful bidder, the
27 successful bidder shall pay one full year of rent and, unless all parties
28 agree to an extended payment schedule, the appraised value of any
29 nonremovable improvements pursuant to section 37-322.01. If the successful
30 bidder does not pay one full year of rent or the value of any nonremovable
31 improvements within thirty days after the department requests payment, the
32 department may offer the lease to the next best bidder. A lease that is
33 issued pursuant to this section shall require the lessee to pay annual rent
34 that is equal to the amount of annual rent bid, unless a reappraisal or
35 rental adjustment requires a higher amount.

36 D. Any person residing upon contiguous land for which the person has
37 an allowed United States homestead entry or for which the person has received
38 a patent from the United States upon a homestead entry shall, upon
39 application, have a preferred right to lease the amount of contiguous state
40 land necessary for personal use.

41 E. Any person lawfully occupying any lands, the title to which is
42 acquired by the state by operation of law, shall have a preference right to
43 lease the occupied land provided application to do so is made within thirty
44 days from and after written notice by the department to such occupant of the
45 acquisition of title.

1 Sec. 7. Section 37-335.02, Arizona Revised Statutes, is amended to
2 read:

3 37-335.02. Off-site improvement of urban lands

4 A. The governing body of an incorporated city or town or the board of
5 directors of a county improvement district OR A COMMUNITY FACILITIES DISTRICT
6 PURSUANT TO TITLE 48, CHAPTER 4, ARTICLE 6 may submit to the commissioner for
7 approval an improvement plan to be carried out by the city, town or county
8 improvement district for some or all of the urban lands within its corporate
9 or district boundaries ~~or for inclusion in a community facilities district~~
10 ~~pursuant to title 48, chapter 4, article 6.~~ The plan shall be submitted
11 before any assessment has been levied for construction of off-site
12 improvements which will be on or adjacent to and benefit the urban land. The
13 plan may provide for the imposition of special assessments only against the
14 leasehold interest of the lessee or the interest in the certificate of
15 purchase of the purchaser of urban lands which will be subject to sale or
16 long-term lease pursuant to section 37-281.02 or other law. The plan shall
17 include the following:

18 1. A description of the work proposed.

19 2. An estimate of the cost of such work and the costs to be imposed
20 against the leasehold interest of the lessee or the interest in the
21 certificate of purchase of the purchaser of urban land within the area of the
22 plan.

23 3. A map and legal description of the area showing the urban lands
24 benefited by the work proposed.

25 4. A method of charging the cost to any long-term lessee or
26 certificate of purchase holder of the urban lands benefited.

27 5. A schedule or alternative schedules for payment of the costs so
28 charged by future holders of certificates of purchase or lease on such urban
29 land, including the manner in which charges under such schedules will be held
30 in abeyance for urban lands not subject to a certificate of purchase or
31 lease. The schedule for payments shall state the maximum assessment amount,
32 excluding interest, which may be imposed against the leasehold interest of
33 the lessee or the interest in the certificate of purchase of the purchaser
34 of urban land involved in the plan.

35 6. The maximum interest rate to be charged on the unpaid charges,
36 including the maximum rate at which interest, if any, will accrue for urban
37 lands benefited but not subject to a certificate of purchase or lease.

38 7. Information showing that the urban land involved in the plan will
39 be benefited in an amount equal to or greater than the proposed maximum
40 assessment amount.

41 8. Such other terms as the governing body deems necessary or
42 appropriate.

43 B. No plan may include urban land which is already subject to a
44 long-term lease or certificate of purchase nor may any assessment be imposed
45 against the leasehold interest of the lessee or the interest in the

1 certificate of purchase of the purchaser of such land unless the lessee or
2 certificate of purchase holder agrees to such inclusion and assessment.

3 C. The commissioner shall cooperate if requested by the governing body
4 of the city, town or county improvement district in the preparation and
5 revision of the improvement plan. The commissioner may hold such public
6 hearings as the commissioner determines are necessary and may approve the
7 plan if it is in compliance with the development or secondary plan for the
8 urban lands affected.

9 D. If the commissioner approves the improvement plan or any
10 modification of the plan, he shall enter an order to that effect in his
11 official records and cause a copy to be served on the governing body
12 requesting approval, recorded with the county recorder of the county in which
13 the land is located and filed with the secretary of state. Fees shall not
14 be charged for recording or filing.

15 Sec. 8. Section 37-503, Arizona Revised Statutes, is amended to read:

16 37-503. Disposition of personal property unlawfully abandoned
17 on state land

18 A. Except as provided by title 28, chapter 11 and section 37-288.01,
19 the department may dispose of or contract for the disposal of personal
20 property on state land without legal process if the department reasonably
21 determines that the property was deposited by:

22 1. A person who was trespassing on state trust land.

23 2. A permittee or lessee of the department who deposited the property
24 while engaging in activities that are not authorized by the permit or lease.

25 B. If the department reasonably determines that the value of the
26 property is more than the cost of removing it, the department:

27 1. Shall post ON THE PROPERTY a conspicuous notice of pending disposal
28 of the property at least ten days before disposing of the property pursuant
29 to subsection A of this section.

30 2. May deliver the property to the department of administration for
31 disposal pursuant to title 41, chapter 23, article 8, if the property is not
32 removed within ten days after the department posts the notice pursuant to
33 paragraph 1 of this subsection.

34 C. IF THE DEPARTMENT REASONABLY DETERMINES THAT THE VALUE OF THE
35 PROPERTY IS MORE THAN THE COST OF REMOVING IT AND THAT THE PROPERTY CREATES
36 A RISK TO PUBLIC HEALTH OR SAFETY, THE DEPARTMENT SHALL PROMPTLY TAKE ACTION
37 TO REDUCE THE RISK POSED BY THE PROPERTY THAT MAY INCLUDE:

38 1. ERECTING A TEMPORARY FENCE OR OTHER BARRIER AROUND THE PROPERTY.

39 2. POSTING A CONSPICUOUS NOTICE ON THE BARRIER OR PROPERTY WARNING OF
40 THE RISK.

41 3. IMMEDIATELY REMOVING THE PROPERTY TO A SECURE LOCATION,
42 NOTWITHSTANDING SUBSECTION B OF THIS SECTION. IF THE DEPARTMENT CONSIDERS
43 THAT REMOVAL TO A SECURE LOCATION IS NECESSARY:

44 (a) THE DEPARTMENT SHALL POST A NOTICE IN PLACE OF THE PROPERTY
45 STATING:

1 (i) THE DATE THE PROPERTY WAS REMOVED.

2 (ii) THAT THE DEPARTMENT MAY DISPOSE OF THE PROPERTY WITHIN TEN DAYS
3 AFTER THE DATE OF THE NOTICE UNLESS THE OWNER REDEEMS THE PROPERTY BY PAYING
4 THE DEPARTMENT'S COSTS OF REMOVING AND STORING THE PROPERTY.

5 (iii) THE NAME, STREET ADDRESS AND TELEPHONE NUMBER OF THE
6 DEPARTMENT'S AGENT WHO AN OWNER MAY CONTACT IN RESPONSE TO THE NOTICE.

7 (b) THE DEPARTMENT IS NOT LIABLE FOR ANY LOSS OR DAMAGE TO THE
8 PROPERTY.

9 D. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, IF THE PERSONAL
10 PROPERTY IS MECHANICAL EQUIPMENT BEARING A SERIAL NUMBER OR REGISTRATION
11 NUMBER, THE DEPARTMENT SHALL TAKE REASONABLE EFFORTS TO IDENTIFY ANY
12 LIENHOLDER OF RECORD, PROVIDE WRITTEN NOTICE TO ANY IDENTIFIED LIENHOLDER OF
13 RECORD AND REFRAIN FROM DISPOSAL OF THE PROPERTY UNTIL THIRTY DAYS AFTER THE
14 DATE OF THE NOTICE. IF THE LIENHOLDER CHOOSES TO RECOVER THE PROPERTY, THE
15 LIENHOLDER SHALL REIMBURSE THE DEPARTMENT THE REASONABLE COSTS INCURRED IN
16 REMOVING AND STORING THE PROPERTY, IDENTIFYING AND CONTACTING THE LIENHOLDER.

17 E. This section does not limit the department from recovering its
18 costs of removing and disposing of personal property on state land according
19 to the terms of a permit or lease or as otherwise allowed by law.

APPROVED BY THE GOVERNOR APRIL 17, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2003.

Passed the House March 5, 2003,

Passed the Senate April 10, 2003

by the following vote: 59 Ayes,

by the following vote: 28 Ayes,

0 Nays, 1 Not Voting

0 Nays, 2 Not Voting

Jake Flake

Speaker of the House

Norman L. Fyone

Chief Clerk of the House

Klu Blumeth

President of the Senate

Cherrin B. Bingham

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14 day of April, 2003

at 3:11 o'clock P M.

Sandra G. Hamer

Secretary to the Governor

Approved this 17 day of

April, 2003,

at 4⁰⁰ o'clock P M.

Jt. Nagel

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 2003

at 4:18 o'clock A M.

Janice K. Brewer

Secretary of State

H.B. 2087